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MALLETIER, CHANEL, INC. and
PRADA, S.A.

FILED
DISTRICT COURT OF GUAM

MAY - 5 2003

MARY L. M. MORAN
CLERK OF COURT

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UNITED STATES DISTRICT COURT OF GUAM

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

LOUIS VUITTON MALLETIER and
CHANEL, INC., and PRADA, S.A.

Plaintiffs,

vs.

VENDOR DOE I, aka U.S.A. T-
SHIRTS AND GIFT ITEMS,
VENDOR DOE II, aka SU KIM,
VENDOR DOE III, and DOES I
THROUGH XX,

Defendants.

CIVIL CASE NO. 03-00013

**DECLARATION OF HAJIME MITSUOKA IN SUPPORT OF PLAINTIFFS' VERIFIED
COMPLAINT AND PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING
ORDER, SEIZURE ORDER, ORDER TO SHOW CAUSE FOR PRELIMINARY
INJUNCTION, ORDER SEALING FILE AND ORDER ACCELERATING DISCOVERY**

ORIGINAL

HAJIME MITSUOKA, being duly sworn, declares and states as follows:

1. I am a citizen of Japan and resident of Saitama City, Japan. I am a Director of the Intellectual Property Office of LVMH Fashion Group Japan K.K., located at Aoyama Twin, 1-1-1 Minami-Aoyama, Minato-Ku, Tokyo, Japan 107-0062. I file this Declaration in support of Plaintiffs' Verified Complaint and Plaintiffs' Motion for Temporary Restraining Order, Seizure Order, Order to Show Cause for Preliminary Injunction, Order Sealing File and Order Accelerating Discovery. I have personal knowledge of the facts contained herein. If called as a witness I could testify as to the facts contained herein.

2. LOUIS VUITTON has been a master trunk maker in Paris since 1854. It is a prestigious firm whose products have always been acknowledged as the "epitome of refinement." The products of LOUIS VUITTON are renowned for their unique craftsmanship and the highest standards of quality.

3. I have worked for LVMH Fashion Group for over two years, since January 2001. Since entering the company until the present, I have been trained to identify "LOUIS VUITTON" products in order to research, investigate, and eradicate various forms of counterfeit LOUIS VUITTON trademarks and logos. I have received extensive training in the identification of LOUIS VUITTON and counterfeit LOUIS VUITTON merchandise, including seminars and law enforcement briefings. I have researched and investigated many cases of LOUIS VUITTON counterfeit merchandise, principally in Japan but also in Hawaii and now in Guam. There are eight members in my team, including myself. Our team has assisted in 180 criminal raids and 120 arrests of counterfeiters in Japan last year. We have also assisted in border stops which resulted in 155,000 counterfeit items being confiscated by the customs office last year in Japan. In Japan, I have provided written

testimony, reports and evidence in most of those cases. In those reports I have shown individual discrepancies between counterfeit and genuine LOUIS VUITTON products and I have evaluated thousands of pieces of LOUIS VUITTON items.

4. During my employment at LOUIS VUITTON, I have therefore come to be very familiar with the design of the products of the "LOUIS VUITTON" line including without limitation, "LOUIS VUITTON" bags, wallets, briefcases, keycases, belts, and leather and leather-trimmed accessories. I am also very familiar with the "LOUIS VUITTON" trademarks, which have become widely known and recognized throughout the world.

5. On February 19, 2003 I traveled with my colleague Eri Matsuo, also from the Intellectual Property Office of LVMH Fashion Group to Guam for the purpose of posing as tourists and determining whether certain stores and vendors on Guam were selling counterfeit goods marked with the LOUIS VUITTON names and trademarks. We visited two stores in Tumon and one outdoor vendor in Agana.

USA T-SHIRTS AND GIFT ITEMS

6. On February 19, 2003, we took a taxi from Hyatt Hotel at 9:15 p.m. and asked the driver to take us shopping for "fake" brands. The taxi driver gave us a card with his name and number and identified himself as "Ulysses Bien." A true and correct copy of the card he gave us is attached hereto as Exhibit 1. He drove taxi car no. 1204. "Ulysses" told us that there are only two stores selling counterfeit items. The taxi driver took us to the "USA T-Shirt and Gift Items" shop, located across the street from Burger King in Upper Tumon. A true and correct copy of a photograph showing the shop is attached hereto as Exhibit 2. The shop is located at the first door from the right of the building as shown in Exhibit 2.

7. There were two persons in the store, one man in his mid-50's and a woman in her mid-50's. Both appeared to be of Korean descent. The man wore eyeglasses, had thinning black hair, was about 170 centimeters tall, and was of medium weight, about 70 kilograms. The man identified himself as "Richard" and gave me a card where he wrote his name and number. A true and correct copy of this card is attached hereto as Exhibit 3. The woman was about 158 centimeters tall, a bit overweight, had light brown hair in a ponytail, and a light complexion. The man and woman spoke Japanese to us throughout our visit there. The taxi driver spoke to them in English and said "you got customers." The two persons said, "come on in" and showed us to a back room approximately 12 feet wide by 20 feet long.

8. In the back room were displayed approximately 50 LV bags, 30 LV small leather goods, like keychains, wallets, billfolds, purses; 70 Prada bags; 10 Prada small leather goods, like purses; 10 Chanel bags; 10 Chanel small leather goods, like purses; 10 Celine bags; 10 Gucci bags; 10 Gucci small leather goods, like keycases, coinholders; 1 Christian Dior saddlebag; 15 Hermes bags; 15 Fendi bags; 100 Gucci, Hermes, LV, and Prada mobile cell phone holders; 30 pieces of Chanel necklaces, bangles, pendants and earrings; 5 Burberry wool mufflers; 10 Chanel knit sweaters; 10 pairs of Fendi, Chanel and Ferragamo shoes. All of these items were displayed on shelves in the back room.

9. We asked whether the items were made in Korea or China, but the two individuals said that all of the items were "copies" and were made in the United States. They also said that their prices were about 1/3 to 1/2 of the prices of the genuine articles. Richard said that their counterfeit items were "A' Class," and the small items were more difficult to make, which is why they were so expensive. We asked the retail price of LV

wallets, they said they sold them at \$220 to \$280 apiece. They also said they sold LV bags from \$250 up.

10. At this store, we purchased an LV wallet for \$230.00. A true and correct copy of the photograph of this wallet is attached hereto as Exhibit 4. The LV wallet is not a genuine item because the snap is a different shape. The plating of the zipper handle on the wallet is too shiny. The monogram impression of the canvas of the wallet is not as deep or ingrained as the genuine item. Inside the wallet, the glue holding of the inner pocket is showing and the name "LOUIS VUITTON Paris" is not embossed or ingrained, it appears to be stamped. In the coin section of the wallet, there are two small styrofoam pads, which are not used in the genuine item. Also, there was a paper Diner's Club card in the credit card holder which is not placed in the genuine item. There is a white paper tag identifying the wallet as from "Louis Vuitton", but in the genuine item the paper tag is made of cream-colored paper.

11. We also purchased a small black Prada handbag and keycase for \$170.00. The Chanel bracelet was purchased for \$50.00. We also purchased a Prada cellphone strap for \$50.00. True and correct copies of the photographs of these items are attached hereto as Exhibits 5, 6, 7 and 8. In our presence, the woman took the small black Prada handbag and she took off the metal Prada badge on the bag and replaced it with another one.

12. The individuals at this store then gave us three Gucci cell phone holders and a LV cellphone holder for free. A true and correct copy of the photograph of the three Gucci cellphone holders is attached hereto as Exhibit 9. A true and correct copy of the photograph of the LV cellphone holder is attached hereto as Exhibit 10. The LV

cellphone holder is counterfeit because LV does not make hand-held cellphone holders like these. LV only makes a necklace-type cellphone straps, made in natural cowhide.

STORE BEHIND ABC STORE

13. On February 20, 2003, at 11:00 a.m., we got a taxi from the Hyatt Hotel. The taxi driver was named "Eddie" from Unicorn Taxi, Taxi no. 1295. There was a Korean man at the taxi station at Hyatt that we saw the night before. We told him we went to a store with "fakes" last night and that the first taxi driver had told us there were only two stores selling "fakes" and then told him we wanted to go to another store. The Korean man told Eddie to take us to the other store. Eddie took us to a store across the road from the Hyatt Hotel, located behind the ABC Store. It was a one-story building with a green roof and a wooden door, with posters hung up on the windows and an open vacant space in the front. There was no sign outside the building. A true and correct copy of a photograph of the store is attached hereto as Exhibit 11.

14. Eddie walked with us into the store. We were the only customers in the store. A woman identified herself as "Mrs. Kim" and said she was in her forties and that she had a young child. She was about 156 centimeters tall, a little overweight, had light brown permed hair. She appeared to be of Korean descent. She spoke only Japanese to us while we were in the store.

15. We walked into the store and saw t-shirts and baby's clothes in one main room, which was about 25 feet wide and 30 feet long. Mrs. Kim led us to a back room on the right hand side of the room. The door to the back room was at first not visible because it was covered with hanging t-shirts. The back room was about 15 feet wide and 15 feet long.

16. In the back room, we saw many shelves all along the walls of the room displaying about 20 LV bags; 70 small LV leather goods, wallets, purses, keycases, and cigarette holders; 30 Prada bags; 10 Prada wallets, purses and keycases; 30 Prada small handbags; 10 Gucci bags; 5 Gucci small coin purses; 10 Fendi bags; 5 Hermes bags; 5 Chanel bags; 15 Chanel purses, wallets, keycases; 10 LV hand-held cellphone straps; 3 Fendi sweaters; 5 Chanel sweaters and t-shirts; 50 Chanel necklaces and earrings. In the middle of the room was a display case displaying Rolex watches. Mrs. Kim mentioned that all of the items in the back room were "copies."

17. We purchased a small LV cigarette case for \$80. The LV cigarette case is counterfeit, because the LV monogram is not as deep or as ingrained as the genuine item. It is also poorly stitched. In the inside of the case, the name "LOUIS VUITTON" is stamped and not embossed. Also, the glue holding in the inner pocket is visible, unlike the genuine item. The edges of the case are rough and disjointed. The case came in a box, which Mrs. Kim said was ordinarily sold also, but she gave the box to us. The box says "LOUIS VUITTON Malletiera Paris", and the genuine box should said "LOUIS VUITTON Malletier a Paris," and the font on the fake box is the wrong font. The texture of the counterfeit box is not as deeply ingrained as the genuine box, and the color of the box is too light. A true and correct copy of a photograph of the cigarette case and box is attached hereto as Exhibit 12.

18. We also purchased a Chanel necklace for \$40 and a Prada small handbag for \$100. True and correct copies of photographs of these items are attached hereto as Exhibits 13 and 14. All items cost \$220, and when we asked for a discount, she gave us a discount and charged us only \$200.

PLAZA DE ESPANA OUTDOOR VENDOR

19. On February 20, 2003, at about 12:15 p.m., Eri told Eddie she wanted to go shopping again. Eddie said he knew another place near the church and he took us to the Plaza De Espana, near the church in Agana. Eddie stopped in a parking lot and he said usually there are a lot of outdoor vendors but that day there was only one vendor.

20. We approached the vendor, which was a woman who spoke Japanese to us. She was about 158 centimeters tall, heavy, had short black hair, and dark skin. She appeared to be of Korean descent. A true and correct copy of a photograph of the woman is attached hereto as Exhibit 15. She had a table about 7 feet long and 3 feet wide, which displayed t-shirts and souvenir items, like keyholders, necklaces, rings and earrings.

21. Also on display on the table were 10 LV bags, 20 LV and Chanel small leather goods, mainly wallets; 70 LV, Gucci and Prada hand-held cellphone straps; and 20 Chanel keyholders.

22. We bought an LV hand-held cellphone holder for \$10. A true and correct copy of a photograph of the cellphone holder is attached hereto as Exhibit 16. The hand-held cellphone holder is counterfeit because LV does not make hand-held cellphone holders, only necklace-type cellphone holders made of natural cowhide leather.

23. We also bought a Chanel keyholder for \$8. A true and correct copy of a photograph of the keyholder is attached hereto as Exhibit 17.

24. After purchasing and obtaining the above-mentioned merchandise from the three vendors, we gave all of the items to Anita P. Arriola of Arriola, Cowan & Arriola. None of these three vendors are authorized dealers of LOUIS VUITTON products.

25. All of the items we purchased at the two stores and one vendor prominently

display counterfeit copies of the LOUIS VUITTON name, trademark and logo. The trademarks are identical or substantially similar to those used on genuine LOUIS VUITTON products. However, the quality of these counterfeit products is inferior to the quality of genuine LOUIS VUITTON goods.

26. LOUIS VUITTON vigorously pursues counterfeit goods as soon as it discovers them and has instituted suit where necessary to bring a prompt end to these unlawful and deceptive practices. The unauthorized manufacture, distribution, exportation, importation, and sale of counterfeit LOUIS VUITTON merchandise causes confusion and deceives the consuming public as to the true source of such merchandise. Because the counterfeit items bear copies of LOUIS VUITTON's name, logo and trademark, I believe that other customers would purchase the items in the belief that they are genuine products of LOUIS VUITTON, which they are not.

27. Defendants' actions will cause substantial and irreparable damage and injury to LOUIS VUITTON and, in particular, to the valuable goodwill and reputation symbolized by the LOUIS VUITTON trademarks. Unless the court enjoins defendants, they will continue to cause LOUIS VUITTON substantial and irreparable damage and injury. Further, defendants' manufacture, distribution, exportation, importation and sale of counterfeit or infringing LOUIS VUITTON merchandise will cause substantial injury to LOUIS VUITTON's reputation and cause substantial sales of LOUIS VUITTON's authentic products to be lost or diverted to defendants, in an amount impossible to calculate with any certainty at the present time.

28. Based on my training and experience, I am aware that it is a common practice of individuals and businesses involved in the trafficking of counterfeit merchandise

to maintain and keep the following types of documentary evidence and other items in their place of business:

- A) Books, records, receipts, notes, ledgers, correspondence and other papers related to the importation and trafficking of goods containing counterfeit marks.
- B) Records, books, and papers reflecting names, addresses, telephone numbers, and other contact and identification data relating to the importation of and trafficking in goods containing counterfeit marks, including records such as telephone and address listings of suppliers and customers.
- C) Cash and currency that can be directly traced as proceeds of the sale of items containing counterfeit marks.
- D) Records relating to or reflecting income, expenditures, and wealth obtained through trafficking in goods containing counterfeit marks, including without limitation, money orders, wire transfers, cashier's check receipts, bank statements, passbooks, checkbooks, and check registers.
- E) Items of personal property or documents which tend to identify the person(s) using, occupying, controlling, or owning the premises, including but not limited to personal computers, hard disk drives, diskettes, CD-Roms, opened mail, leases, rental agreements, photographs, telephone books, diaries, utility and telephone bills, statements, identification documents, and keys.

29. All of the foregoing documents and items are necessary, important, and material in determining the extent of the defendants' sales of counterfeit LOUIS VUITTON products, as well as in determining the suppliers, manufacturers, exporters, importers and other retailers of counterfeit LOUIS VUITTON products.

I declare under penalty of perjury under the laws of the United States and the laws of Guam that the foregoing is true and correct.

Dated: February 21, 2003.


HAJIME MITSUOKA

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

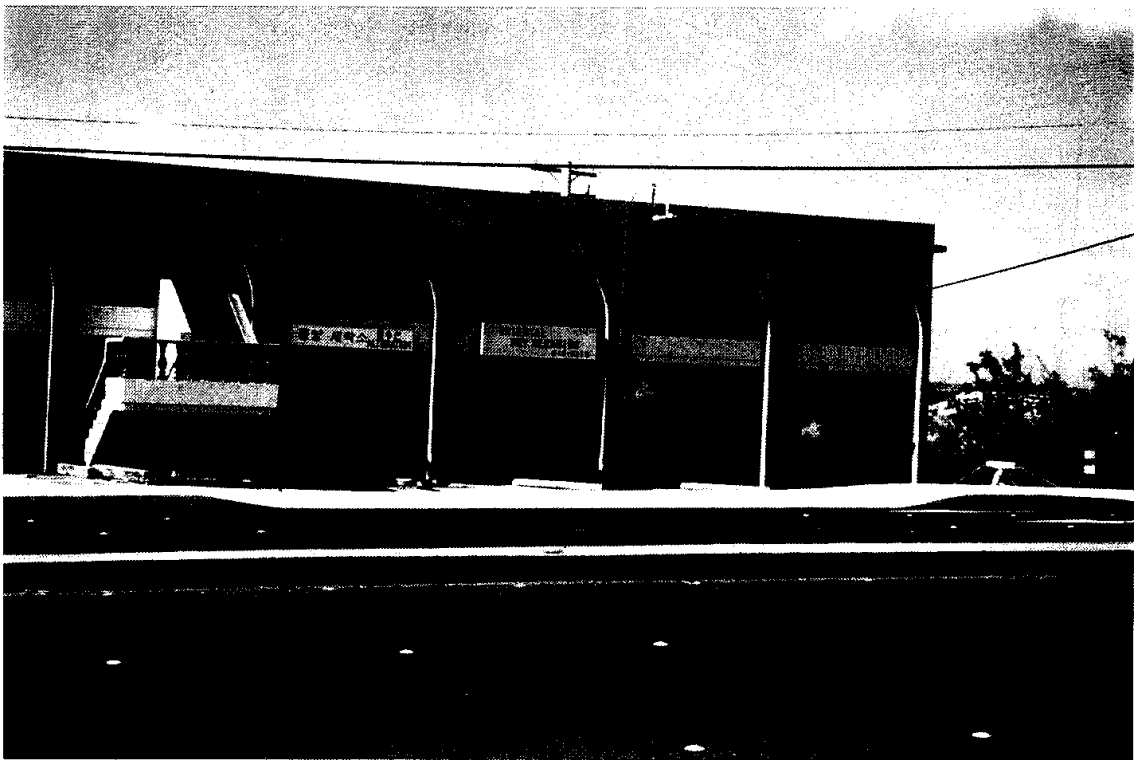
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